

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC, Debtors.	Chapter 11 Case No. 20-10343 (LSS) (Jointly Administered)
BOY SCOUTS OF AMERICA, Plaintiff, v. A.A., <i>et al.</i> , Defendants.	Adv. Pro. No. 20-50527 (LSS) Re: Adv. D. I. 107 Obj. Deadline: November 5, 2020 @ 4:00 P.M. (ET) Hearing Date: November 18, 2020 @ 10:00 A.M. (ET)

**LIMITED OBJECTION TO THIRD STIPULATION BY AND AMONG
THE BOY SCOUTS OF AMERICA, THE OFFICIAL COMMITTEE OF SURVIVORS OF
ABUSE, AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS MODIFYING
THE CONSENT ORDER GRANTING THE BSA’S MOTION FOR A PRELIMINARY
INJUNCTION PURSUANT TO 11 U.S.C. §§ 105(A) AND 362 AND FURTHER
EXTENDING THE TERMINATION DATE OF
THE STANDSTILL PERIOD**

Objectors M.R., N.P., and Michael O’Malley (collectively, the “Objectors”) are plaintiffs in certain state court actions regarding claims against Debtor Boy Scouts of America and other non-Debtors stemming from sexual abuse of Objectors. Objectors object on a limited basis to the *Third Stipulation By and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Modifying the Consent Order Granting the BSA’s Motion for a Preliminary Injunction Pursuant to 11 U.S.C. §§ 105(A) and 362 and Further Extending the Termination Date of the Standstill Period* (the “Third Stipulation”) [A.D.I. 107], and respectfully submit as follows:

BACKGROUND

A. The State Court Actions

1. Objectors each filed separate state court actions captioned as follows:

- *M.R. v. Boy Scouts of America, et al.*, Supreme Court of the State of New York, County of Kings, Index No. 522910/2019 (“State Court Action No. 1”).¹ State Court Action No. 1 is listed as No. 92 on Schedule 1 of the Second Stipulation and Agreed Order²;
- *N. P. v. Lawrence Svrcek, et al.*, Supreme Court of the State of New York, County of Queens, Index No. 717381/2019 (“State Court Action No. 2”).³ State Court Action No. 2 is listed as No. 106 on Schedule 1 of the Second Stipulation and Agreed Order. State Court Action No. 2 was removed to federal court and is pending in the United States District Court, Eastern District of New York, Docket No. 1:20-cv-000942-RPK-RML; and
- *Michael O’ Malley v. The Roman Catholic Diocese of Brooklyn New York*, Supreme Court of the State of New York, County of Kings, Index No. 518178/2019 (“State Court Action No. 3,” and collectively with State Court Action No. 1 and State Court Action No. 2, the “State Court Actions”).⁴ State Court Action No. 3 is listed as No. 90 on Schedule 1 of the Second Stipulation and Agreed Order.

2. The Complaint filed in State Court Action No. 1 alleges eight (8) causes of action against each of the defendants arising out of the sexual abuse by James T. Grace, Jr. (“Grace”).

3. Each of the causes of action are separate and distinguishable as to the particular defendants, including the non-Debtor defendants Grace, Diocese of Brooklyn, St. Benedict Joseph Labre Church, and St. Benedict Joseph Labre School (collectively, the “Non-Debtor Defendants”).

¹ Additional named defendants are: (i) National Boy Scouts of America Foundation; (ii) Scouts BSA; (iii) Greater New York Councils, Boy Scouts of America; Greater New York Councils, Queens Council, Boy Scouts of America; (iv) Diocese of Brooklyn; (v) St. Benedict Joseph Labre Church; (vi) St. Benedict Joseph Labre School; and (vii) James T. Grace Jr.

² State Court Action No. 1 is listed as pending in U.S. District Court on Schedule 1, but it was remanded to state court.

³ Additional named defendants are: (i) St. Demetrios Greek Orthodox Church; (ii) Greek Orthodox Archdiocese of America; (iii) The Boy Scouts of America; and (iv) The Boy Scouts of America, Greater New York Councils.

⁴ Additional named defendants are: (i) Church of the Holy Innocents; (ii) Boy Scouts of America; (iii) Greater New York Council of the Boy Scouts of America; (iv) Alpine Scout Camp; and (v) Frank Pedone.

No.1”). The claims against Non-Debtor Defendants No. 1 arise from Grace’s position with the St. Benedict Joseph Labre Church and St. Benedict Joseph Labre School and plaintiff’s participation in certain non- Boy Scout programs. Specifically, Grace played numerous roles both with the church and school defendants, and separate roles with the Boy Scouts defendants. With respect to the church and school defendants, Grace was a Eucharistic Minister and CYO sports coach. Plaintiff M.R. participated in the church and school defendants CYO sports program, and Grace gained access to and sexually abused plaintiff M.R. in that context, as well as in his capacity as a Eucharistic Minister. A true and correct copy of the Complaint filed in State Court Action No. 1 is attached hereto as **Exhibit A**.

4. The Complaint filed in State Court Action No. 2 alleges ten (10) causes of action against each of the defendants arising out of sexual abuse of plaintiff N.P. by, among others, defendant Lawrence Svrcek (“Svrcek”). Each of the causes of action are separate and distinguishable as to the particular defendants, including non-Debtor defendants St. Demetrios Greek Orthodox Church (“St. Demetrios”) and Greek Orthodox Archdiocese of America (“Greek Archdiocese” and collectively, the “Non-Debtor Defendants No. 2”). A true and correct copy of the Complaint filed in State Court Action No. 2 is attached hereto. as **Exhibit B**. The claims against Non-Debtor Defendants No. 2 arise not only from certain Boy Scout programs and Svrcek’s position as a Scoutmaster, but also separately arising from his position as a teacher, and other alleged abuser teachers, at St. Demetrios N.Y. Day School created by the Greek Archdiocese and operated by St. Demetrios.

5. The Complaint filed in State Court Action No. 3 alleges sixteen (16) causes of action. The First, Second, Fifth through Seventh, Tenth, and Thirteenth through Sixteenth Causes of Action are separate and distinguishable against each of the non-debtor defendants The Roman Catholic Diocese of, New York, Church of the Holy Innocents, Alpine Scout Camp and Frank Pedone (“Pedone,” and collectively, the “Non-Debtor Defendants No. 3”) arising out of sexual

abuse of plaintiff Michael O'Malley by Pedone. The Non-Debtor Defendants No. 1, Non-Debtor Defendants No. 2 and Non-Debtor Defendants No. 3 are collectively hereinafter referred to as the Non-Debtor Defendants. A true and correct copy of the Complaint filed in State Court Action No. 3 is attached hereto. as **Exhibit C**.

B. The Motion to Modify Preliminary Injunction

6. On November 4, 2020, Objectors filed their Motion for Order Modifying Preliminary Injunction to Allow Movants to Proceed With State Court Actions as to Non-Debtor Defendants (the "Motion"), the Opening Brief, and Declaration in support thereof [Adv. D.I. 109, 110 and 111].

7. The Motion seeks an Order modifying the preliminary injunction issued pursuant to the Consent Order to allow the State Court Actions to proceed on the claims against the Non-Debtor Defendants only.

LIMITED OBJECTION

8. As detailed above and in the Opening Brief [Adv. D.I.111]⁵, each of the causes of action alleged in the State Court Actions are separate and distinguishable as to the particular defendants, including the Non-Debtor Defendants and can be prosecuted in the pending non-bankruptcy forum separate and apart from any claims against BSA.⁶

9. For the reasons set forth in the Motion and Opening Brief, Objectors are requesting that the preliminary injunction issued pursuant to the Consent Order be modified to allow for the Objectors to proceed with the State Court Actions as to the Non-Debtor Defendants only.

10. Since the Third Stipulation extends the Termination Date, Objectors

⁵ The arguments set forth in the Motion and Opening Brief are hereby incorporated as though set forth in full.

⁶ To the extent required, Objectors intend to file motions to sever in the State Court Actions.

submit this limited objection to the Third Stipulation as to its application to the State Court Actions pending the adjudication of the Motion by this Court.

Dated: November 5, 2020
Wilmington, Delaware

Respectfully submitted,

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